



TAX EXEMPT AND
GOVERNMENT ENTITIES
DIVISION

DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, D.C. 20224

200907046

NOV 19 2008

UICs: 402.00-00

T:EP: RA:TY

Legend:

Taxpayer A =

Plan X =

IRA Y =

Amount C =

Account M =

Date 1 =

Date 2 =

Date 3 =

Dear

This is in response to your letter dated _____, and supplemented by
correspondence dated _____ and _____, as submitted by
your authorized representative, in which you request a waiver of the 60-day rollover
requirement contained in section 402(c)(3) of the Internal Revenue Code ("Code").

The following facts and representations have been submitted under penalty of perjury in
support of the ruling requested.

Taxpayer A, under age , represents through his authorized representative that he received a distribution from Plan X totaling Amount C. Taxpayer A asserts that his failure to accomplish a rollover within the 60-day period prescribed by section 402(c)(3) of the Code was due to the effects of physical health conditions that prevented him from completing the rollover transaction.

On Date 1, Taxpayer A closed the brokerage account associated with Plan X and received a distribution of Amount C that he deposited into his personal account, Account M. Taxpayer A intended to contribute Amount C into a qualified rollover Individual Retirement Arrangement (IRA Y) within the 60-day rollover period. Taxpayer A represents that Amount C has remained in Account M and has not been used for any other purpose.

Medical documentation submitted indicates that Taxpayer A has suffered a long standing serious physical health condition that severely impairs the vision in one of his eyes. On Date 2, which date was within the 60-day rollover period, Taxpayer A was diagnosed with a serious condition in his other eye that required immediate emergency surgery. The results of this surgery and the effects of his long standing physical health condition severely restricted his ability to conduct business, including completing the rollover transaction, during the recovery period and within the 60-day period prescribed by section 402(c)(3) of the Code.

Based on the facts and representations, a ruling is requested that the Internal Revenue Service waive the 60-day rollover requirement with respect to the distribution of Amount C contained in section 402(c)(3) of the Code in this instance. Taxpayer A intends to deposit Amount C into qualified rollover IRA Y if his request is approved.

Section 402(c) of the Code provides that if any portion of the balance to the credit of an employee in a qualified trust is paid to the employee in an eligible rollover distribution and the distributee transfers any portion of the property received in such distribution to an eligible retirement plan, and in the case of a distribution of property other than money, the amount so transferred consists of the property distributed, then such distribution (to the extent transferred) shall not be includible in gross income for the taxable year in which paid. Section 402(c)(3)(A) states that such rollover must be accomplished within 60 days following the day on which the distributee received the property. An IRA constitutes one form of eligible retirement plan.

Section 402(c)(3)(B) of the Code provides, in relevant part, that the Secretary may waive the 60-day rollover requirement under section 402(c) where the failure to waive such requirement would be against equity or good conscience, including casualty, disaster, or other events beyond the reasonable control of the individual subject to such requirement. Only distributions that occurred after December 31, 2001, are eligible for the waiver under section 402(c)(3)(B) of the Code.

Revenue Procedure 2003-16, 2003-4 I.R.B. 359 (January 27, 2003), provides that in determining whether to grant a waiver of the 60-day rollover requirement pursuant to section 402(c)(3)(B) of the Code, the Service will consider all relevant facts and circumstances, including: (1) errors committed by a financial institution; (2) inability to complete a rollover due to death, disability, hospitalization, incarceration, restrictions imposed by a foreign country, or postal error; (3) the use of the amount distributed (for example, in the case of payment by check, whether the check was cashed); and, (4) the time elapsed since the distribution occurred.

The information and documentation submitted by Taxpayer A is consistent with his assertion that his failure to accomplish a timely rollover was caused by the effects of the surgery to his eye that severely restricted his ability to conduct business, including completion of the rollover transaction, during the recovery period.

Therefore, pursuant to section 402(c)(3)(B) of the Code, the Service hereby waives the 60-day rollover requirement with respect to the distribution of Amount C from Plan X. Taxpayer A is granted a period of 60 days from the issuance of this ruling letter to contribute Amount C into a rollover IRA. Provided all other requirements of section 402(c)(3) of the Code, except the 60-day requirement, are met with respect to such contribution, Amount C will be considered a rollover contribution within the meaning of section 402(c)(3) of the Code.

No opinion is expressed as to the tax treatment of the transaction described herein under the provisions of any other section of either the Code or regulations which may be applicable thereto.

This letter assumes that Plan X is and was qualified under section 401 of the Code, that its related trust is and was exempt under section 501(a) at all relevant times thereto, and that the distribution of Amount C is and was eligible to be rolled over under section 402(c) of the Code.

This ruling is directed solely to the taxpayer who requested it. Section 6110(k)(3) of the Code provides that it may not be used or cited by others as precedent.

A copy of this ruling is being sent to your authorized representative in accordance with a power of attorney on file with this office.

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If you wish to inquire about this ruling, please contact
I.D. No. , at ()

, SE:T:EP:RA:T ,

Sincerely yours,

for Sam B. Wanez
Donzell Littlejohn, Manager
Employee Plans, Technical Group 4

Enclosures:

Deleted Copy of Ruling Letter
Notice of Intention to Disclose

cc: